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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	77147075
Applicant	The Chamber of Commerce of the United States of America
Applied for Mark	NATIONAL CHAMBER
Correspondence Address	William M. Meronee Kenyon & Kenyon LLP 1500 K Street, NW Washington, DC 20005-1257 UNITED STATES tmdocketdc@kenyon.com
Submission	Motion to Consolidate
Attachments	NATIONAL CHAMBER -- Motion to Consolidate Appeals.pdf (3 pages)(22545 bytes)
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Date	02/04/2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the Matter of Service Mark Applications

Serial Nos.:	77/147075	:	Int'l. Class 35
	77/975745	:	
		:	
		:	
Applicant:	The Chamber of Commerce of	:	
	the United States of America	:	
		:	Ex. Atty: Christopher L. Buongiorno
Filed:	April 3, 2007	:	Law Office 102
		:	
Mark:	NATIONAL CHAMBER	:	

United States Patent and Trademark Office
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

BOX TTAB
NO FEE

MOTION TO CONSOLIDATE APPEALS

Applicant, The Chamber of Commerce of the United States of America, hereby moves pursuant to TBMP Section 1214 to consolidate *ex parte* appeal proceedings involving copending Serial Nos. 77147075 and 77975745. The two appeals, which involve the same applicant and the same mark, present common questions of law and fact as they both involve the same substantive refusal issued by the same Examining Attorney. Applicant thus requests that the two cases be consolidated for all purposes, including briefing, argument (if held), and final decision.

BACKGROUND

Applicant filed Serial No. 77147075 on April 3, 2007, seeking to register the mark NATIONAL CHAMBER for use in connection with services in International Classes 35 and 45. The Examining Attorney initially refused registration of all of the services under Section 2(e)(1), but later withdrew the refusal as to Class 45 after consideration of Applicant's argument.

Following discussions with the Examining Attorney, Applicant, to expedite issuance of a registration for the Class 45 services, filed a request to divide the parent application, resulting in the Class 45 services being placed into new Serial No. 77975745. Unfortunately, though, after the division of the previously accepted Class 45 services into the new application, the Examining Attorney issued a new refusal based on the identification of services and eventually issued a final office action. Following further discussions with the Examining Attorney, Applicant proposed a revised identification that was acceptable, but which lead the services to be reclassified in Class 35. The entry of the revised (and narrowed) identification, though, did not the end the matter as the Examining Attorney reinstated the Section 2(e)(1) refusal that had originally been withdrawn and which was the impetus for the filing of the divisional application. The Examining Attorney subsequently continued that refusal, the merits of which Applicant has now appealed.

With regard to the parent application (Serial No. 77147075), Applicant, following the filing of the divisional application, originally noticed an appeal from the Section 2(e)(1) refusal of the Class 35 services. The Board later remanded the appeal for consideration of Applicant's amendment to the Class 35 identification. During further examination, the Examining Attorney continued the Section 2(e)(1) refusal; issued a new refusal alleging that Applicant supposedly failed to respond to a request for information; and went final with respect to the identification. The appeal was reinstated, but later jurisdiction was again remanded to the Examining Attorney,

this time so as to permit the consideration of new evidence relating to the identification refusal, which refusal the Examining Attorney later withdrew. The Section 2(e)(1) and information request refusals, however, were continued, leading to appeal proceedings being resumed.

ARGUMENT

Under the fact presented here, consolidation of the co-pending appeals are warranted. Both cases are in their early stages, having only recently been noticed for appeal, and involve the same applicant, the same mark, the same Examining Attorney, and the same substantive refusal. As such, the appeals present common questions of law and fact, thus warranting consolidation.¹ *Accord, e.g., In re Pebble Beach Co.*, 19 USPQ2d 1687 (TTAB 1991) (consolidating cases where issues were the same); *In re Del E. Webb Corp.*, 16 USPQ2d 1232, 1233 (TTAB 1990) (same);

CONCLUSION

For the reasons set forth above, and to save time, effort, and expense, Applicant respectfully requests that *ex parte* appeal proceedings in Serial Nos. 77147075 and 77975745 be consolidated for all purposes, including briefing, argument (if held), and final decision.

Respectfully submitted,

KENYON & KENYON LLP

Dated: February 4, 2010

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¹ Indeed, but for Applicant filing the divisional application (Serial No. 77975745) so as to secure expedited registration for the Class 45 services (now reclassified into Class 35), all of the issues raised would have been presented together in an appeal from a single application (Serial No. 77147075).